



# Public Knowledge

June 29, 2011

Marlene H. Dortch, Esq.  
Secretary  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

Re: MB Docket No. 10-91, MB Docket No. 10-71, and MB Docket No. 07-269

Dear Ms. Dortch,

On June 29, 2011, Harold Feld, John Bergmayer, Rashmi Rangnath, and Avonne Bell from Public Knowledge ("PK"), met with Steven Broecker, Michelle Cary, David Konczal, William Lake, Mary Beth Murphy, Nancy Murphy, Alison Neplikh, Jeffrey Neumann, and Matthew Pische, from the Media Bureau, on the topics of retransmission consent, AllVid, and the Multichannel Video Programmer Distribution (MVPD) Competition Report.

PK stressed to the Commission that collecting comprehensive pricing data on the market is not necessary for the agency to use its authority to institute boundaries and requirements concerning parties that choose not to negotiate retransmission agreements in good faith. PK also encouraged the FCC to consider developing a process for filing complaints even if it decided not to pursue any of the AllVid proposals at this time. PK emphasized that in order to promote growth in the market there needs to be a formal process by which a programmer can file a complaint of possible discriminatory actions under Section 629 and have their complaint properly adjudicated by the Commission. This process could be similar to one currently used for program access which allows for discovery, requirements for a prima facie case, and optional alternative dispute resolution.

Furthermore, PK highlighted the comments filed by the organization on the MVPD Competition Report proceeding and noted that the Commission raised valuable questions about online video. PK discussed that this inquiry presents a great opportunity for the FCC to broaden the scope of what is considered an MVPD and consider the innovative way in which the field of video program distribution is changing. PK proposed the adoption of a procedure that allows online video distributors to choose whether or not they want to be classified as an MVPD. This would promote innovation and development in the market by allowing online businesses to experiment with new models. Regardless of the regulatory status of an OVD, anticompetitive acts by an MVPD against an OVD should be prohibited under Section 628. PK recognized that updating the regulatory regime will involve components outside of the FCC's jurisdiction such as copyright, particularly 17 U.S.C. 111 for cable compulsory licenses, but encouraged the Commission to coordinate with the Copyright Office to facilitate consistent, uniform regulations.

Respectfully submitted,

/s Avonne Bell  
*Law Clerk*  
Public Knowledge